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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/753,708

01/08/2004

Malcolm G. Thomson

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6292

24504

7590

03/30/2005

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EXAMINER

JEANGLAUDE, JEAN BRUNER

ART UNIT

PAPER NUMBER

2819

DATE MAILED: 03/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/753,708

Applicant(s)

THOMSON, MALCOLM G.

Examiner

Jean B. Jeanglaude

Art Unit

2819

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 January 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 2, 19-37 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1 and 19-37 is/are allowed.
- 6) ☒ Claim(s) 2 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>01-31-05</u> | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### **Specification**

Update the cross reference to related application in the specification.

### ***Election/Restrictions***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1, 2, 19 – 37 are drawn to data rate conversion to include digital decimation, classified in class 341, subclass 61.
  - II. Claims 3 – 18 are drawn to multiple frequency bands, classified in class 381, subclass 94.3.
2. During a telephone conversation with Todd Deveau on March 18, 2005 a provisional election was made with traverse to prosecute the invention of group I claims 1, 2, 19 - 37. Affirmation of this election must be made by applicant in replying to this Office action. Claims 3 – 18 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Del Signore et al. (US Patent Number 5,157,395) in view of Kerth et al. (US Patent Number 5,579,247).

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5. Regarding claim 2, Del Signore et al. discloses a system (figs. 2, 3) that comprises a decimation element (12, figs. 2, 3) that provides a signal to a filter bank input node (18a,...18d in fig. 2; 20a,..., 20z in fig. 3 are the bank filters. These filters receives a signal at the node as shown in figs. 2, 3) adapted to receive a signal having noise; and selectable filters (19, fig. 2; 22a,...22z, fig. 3) , each filter being configured to reduce noise (inherent, one of the purpose of a filter is to reduce noise), the selectable filters including a filter having a sub-hertz 3-dB cutoff frequency (fig. 9a)[as shown in fig. 9a, the cutoff frequency appears to be 70.7% of 1 kHz value, thereby the sub-hertz of the selected filter is about 3-dB cutoff frequency) and the filters implemented in Del Signore et al.'s system are a SINC filters (col 7, lines44 – 48). Del Signore et al. does not specifically disclose a system that comprises a material metering machine which comprises a decimation element. However, Kerth et al., in a related field, discloses a system (fig. 1) that that comprises a material metering machine (12) which comprises a decimation element. (36, fig. 3; col. 5, lines 21 – 24). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Del Signore et al.'s system with that of Kerth et al. for the purpose of decreasing or reducing interference and noise sensitivities of ratiometric converter types of circuits.

#### **Allowable Subject Matter**

Claims 1, 19 – 37 are allowable.

6. Reasons for allowing these claims will be provided in the next office action.

Conclusion

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7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. (See PTOL-892).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jean B. Jeanglaude whose telephone number is 571-272-1804. The examiner can normally be reached on Monday - Friday 7:30 A. M. - 5:00 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Tokar can be reached on 571-272-1812. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jean Bruner Jeanglaude  
Primary Examiner  
March 10, 2005